

Sixth Appellate District

San Jose, California

MONDAY, NOVEMBER 25, 2002

H022151 PEOPLE v. COUSINS

By the Court\*:

Appellant's petition for rehearing is denied.

Filed: November 25, 2002

\*Before Bamattre-Manoukian, Acting P.J., and Mihara, J.

H022638 PEOPLE v. SANCHEZ

By the Court\*:

Appellant's petition for rehearing is denied.

Filed: November 25, 2002

\*Before Premo, Acting P.J., Wunderlich, J. and Elia, J.

H024596 PEOPLE v. ALVAREZ

The judgment is affirmed. (not published)

(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J.,  
Wunderlich, J.)

Filed November 25, 2002

H023415 PEOPLE v. GARCIA

H024535 GARCIA on Habeas Corpus

With respect to appeal H023415, defendant has failed to demonstrate an abuse of discretion in the denial of his request for a continuance of the sentencing hearing. Consequently, the judgment of conviction is affirmed. With respect to the petition for writ of habeas corpus, H024535, the Director of Corrections is ordered to show cause, before the Santa Clara County Superior Court, when the matter is placed on calendar, why trial counsel was not ineffective for advising defendant to admit the sentence enhancement without a factual basis and why defendant should not be allowed to withdraw his plea. The return shall be filed on or before December 30, 2002. In all other respects, the petition is denied. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Wunderlich, J.,  
Mihara, J.)

Filed November 25, 2002

Sixth Appellate District

San Jose, California

TUESDAY, NOVEMBER 26, 2002

H022908 PEOPLE v. MAPLE

The April 13, 2001 order extending involuntary commitment is affirmed. (not published)

(Elia, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)

Filed November 26, 2002

H023203 HOLMES v. FOREST RIVER PROPERTY OWNERS' ASSOC., et al.

H023656 HOLMES v. LANKES AND MACMILLAN, et al.

H023790 FOREST RIVER PROPERTY OWNERS' ASSOC. v. HOLMES

In appeal number H023203, the judgment confirming the arbitration award is affirmed.

In appeal number H023790, the order denying Holmes's motion to tax costs is affirmed.

In appeal number H023656, the judgment of dismissal of Monterey County case number M53411 is affirmed.

The Association's motion for sanctions for a frivolous appeal is granted and sanctions are awarded against Holmes and in favor of the Association in the amount of \$5,000. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Elia, J., Mihara, J.)

Filed November 26, 2002

H023131 PEOPLE v. KARPATY

The judgment is affirmed. (not published)

(Elia, J.; We concur: Premo, Acting P.J., Wunderlich, J.)

Filed November 26, 2002

H024165 PEOPLE v. DIAZ, JR.

The judgment is reversed, and the matter is remanded to the trial court. The trial court shall calculate the total number of days defendant served in custody in this case prior to being committed to state prison and shall file an amended abstract of judgment awarding defendant credit for the entire actual time defendant was in custody prior to state prison (Pen. Code, §2900.5) plus the additional days of credit to which he is entitled pursuant to Penal Code section 4019. (not published)

(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., Elia, J.)

Filed November 26, 2002

Sixth Appellate District

San Jose, California

Tuesday, November 26, 2002 (continued)

H023058 PEOPLE v. ALBERT R.

The dispositional order is affirmed. (not published)  
(Bamattre-Manoukian, Acting P.J.; We concur: Wunderlich, J.,  
Mihara, J.)  
Filed November 26, 2002

H023309 PEOPLE v. BRODIS

The judgment is affirmed. (not published)  
(Bamattre-Manoukian, Acting P.J.; We concur: Elia, J., Mihara,  
J.)  
Filed November 26, 2002

WEDNESDAY, NOVEMBER 27, 2002

H023937 PEOPLE v. ROBERT W.

The juvenile court's order is affirmed. (not published)  
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J.,  
Wunderlich, J.)  
Filed November 27, 2002

H023232 PEOPLE v. ABARQUEZ

The judgment is affirmed. (not published)  
(Premo, Acting P.J.; We concur: Wunderlich, J., Rushing, J.)  
Filed November 27, 2002

H022525 PEOPLE v. LARA

The judgment is affirmed. On remand, the trial court is directed to correct the abstract of judgment in the following particulars: (1) in section 1, the sentence for count 2, attempted murder, should be shown as a consecutive sentence rather than a concurrent sentence; (2) in section 2, the enhancements under Penal Code section 12022.53, subdivision (d), for count 1, attempted murder, and count 2, attempted murder, should be shown as 25 years to life rather than zero; and (3) in section 6, the statement of the total indeterminate term should read "25 years to life, consecutive to life, consecutive to 25 years to life, consecutive to life, consecutive to 5 years with possibility of parole on counts 1, 2, 3, and 4." (not published)  
(Premo, Acting P.J.; We concur: Wunderlich, J., Rushing, J.)  
Filed November 27, 2002

Sixth Appellate District

San Jose, California

Wednesday, November 27, 2002 (continued)

H023395 PEOPLE v. PELAIZ

The judgment is affirmed. (not published)  
(Premo, Acting P.J.; We concur: Wunderlich, J., Rushing, J.)  
Filed November 27, 2002

H022959 PEOPLE v. COOPER

The order denying defendant's Penal Code section 17 motion is reversed. The trial court is directed to rehear defendant's motion and exercise its discretion guided by the legal principles and policies noted in People v. Superior Court (Alvarez), supra, 14 Cal.4<sup>th</sup> at page 978. (not published)  
(Premo, Acting P.J.; We concur: Wunderlich, J., Rushing, J.)  
Filed November 27, 2002

H021920 PEOPLE v. LETTEER

The judgment is reversed. The matter is remanded for resentencing before Judge Ball. If Judge Ball is unavailable, then the defendant shall be allowed to withdraw his plea. (published)  
(Wunderlich, J.; We concur: Premo, Acting P.J., Elia, J.)  
Filed November 27, 2002

H023068 PEOPLE v. MCGHEE

The judgment is affirmed. (not published)  
(Premo, Acting P.J.; We concur: Elia, J., Wunderlich, J.)  
Filed November 27, 2002